

MARYSVILLE CITY COUNCIL MEETING

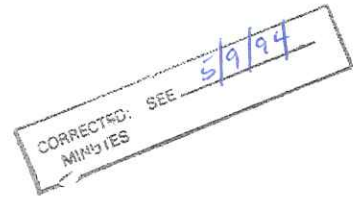
MAY 2, 1994

7:00 p.m.

Council Chambers

Present: Dave Weiser, Mayor
Councilmembers:
Donna Pedersen, Mayor Pro Tem
Ken Baxter
John Myers
Dave McGee
Donna Wright
Mike Leighan
Otto Herman
Administrative Staff:
Dave Zabell, City Administrator
Gloria Hirashima, City Planner
Steve Wilson, Finance Director
Grant Weed, City Attorney
Ernie Berg, City Engineer
Bob Dyer, Marysville Police Chief
Wanda Iverson, Recording Secretary

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CALL TO ORDER:

Mayor Weiser called the Council meeting to order at 7:00 p.m. and led the flag salute.

ROLL CALL:

Finance Director Wilson called the roll with all members present/absent as indicated above.

MINUTES OF THE PREVIOUS MEETING:

In the Water Service Workshop minutes of 4/15/94, Councilmember Herman noted at the very beginning of page 7, the word "had" should be inserted and then later in that sentence....."had assumed that the fuel costs will be on a level playing field."

On page 11 about 1/3 of the way down, it should be "would supply up to 2.2 million gallons....." per Councilmember Herman also.

There being no further corrections or comments, Councilmember Wright moved and Councilmember Herman seconded to approved the 4/15/94 minutes as corrected. Passed unanimously.

In the 4/25/94 regular Council Meeting minutes, Councilmember Pedersen noted on page 11 Mr. Tridell's reference about half way down the page to the reduction in bid would be \$4,000 not \$400. On page 4, under Call on Council, she asked that the first sentence in the last paragraph be ended after the word "etc."

Councilmember Myers noted on page 3 about half way down, rather than "he doesn't want the cemetery distrubed either" it should read "disturbed any more than necessary." On page 5 in the 6th paragraph, he asked that "and Mike Leighan" be added after "Public Works Director Winckler".....for helping put up the new library sign.

It was also noted that the last paragraph on page 6 beginning "Councilmember Myers moved and Councilmember Herman seconded" is redundant, i.e. this was already stated on page 5 at the beginning of the discussion, so it was suggested that this wording be changed to "The question was called for to set the public hearing for 5/23/94."

On page 8 in the first paragraph, "City Planner Herman" should be "City Planner Hirashima".

On page 9 under "2. Liquor License Renewals", in order to clarify, it was noted the 76 establishments were the ones reported with blood alcohol charges (B.A.C.) in Snohomish County.

On page 10 in the second paragraph, "only bidder's bid" should be changed to "low bidder's bid" and "public scrutiny" should be changed to "scrutiny by competitors."

There being no further corrections to the 4/25/94 minutes, Councilmember McGee moved and Councilmember Leighan seconded to approved them as corrected. Passed unanimously.

AUDIENCE PARTICIPATION FOR NON-AGENDA ITEMS:

Aatos Aho, 4333 113th Pl. NE, addressed Council. He stated he has lived there since 1960 and in 1978 they short platted and paid out \$8,000 for the water main and hydrant. He also stated he is 80 years old, a retired commercial fishermen. Every year now he goes to Arizona for the winter and there is no water usage except for a couple days at Christmastime when his wife comes up to see her mother for Christmas. He said las year the City bill him for 1000 gallons but there was no usage, this year it was zero on the meter again and he said he doesn't think he should be paying for any usage, especially when he has already paid for the extension of the water main and hydrant.

Mayor Weiser explained about the minimum charge for administrative costs such as reading the meter, etc. but he said he believed if the customer is gone for 2-3 months they can ask for the water to be shut off and if it's turned off at the meter, there is no charge for usage, just a small charge for turning the water off and on.

Finance Director Wilson pointed out that there is an after hours charge of \$50.00 to turn the water back on.

Councilmember Herman asked Mr. Aho for clarification of the time frame when the water is not used and Mr. Aho stated it's not used from October to Christmas and then for another 2-1/2 months after Christmas; his wife needs the water for a couple days over Christmas is all.

Finance Director Wilson explained there is a \$5 fee to turn the water on and \$5 to turn it off, unless there is an extra trip made and then it's \$10 and \$10.

Councilmember Herman asked about customers that have utilities other than water and Finance Director Wilson said all City utilities can be discontinued at the same time.

Mr. Aho stated he was already on City water when he moved to his place in 1960 and when the City put the water in in 1978, he helped them out a couple times and has been more than considerate with the City; he said he thinks it's time the City showed a little consideration in his direction now.

Finance Director Wilson suggested he speak with someone in the office so they can anticipate Mr. Aho's arrival at Christmastime and the office people could figure out the most cost effective way to manage this situation.

Mayor Weiser added there may also be some consideration given because of Mr. Aho's low water usage. It was left that Finance Director Wilson would look into this further, especially regarding the bill for \$26.50 Mr. Aho had in hand.

STAFF BUSINESS:

1. Lead Communications Officer Position.

Chief Dyer first announced the passing of Tom Hoistad, a long time MPD reserve officer. Full police ceremonies are planned for Wed. 5/4 at the Baptist Church, he said.

With regard to the Lead Communications Officer Position, this is a 3 year assignment and the person is chosen from those who have passed the civil service exam for this position.

Councilmember Pedersen asked if the position would still be held by a police officer.

s/b dispatcher

CORRECTED: SEE 5/9/94 MINUTES s/b regular

Chief Dyer said yes, Sgt. Winters would still be the supervisor and the detective sergeant would be rotated every 3 years as Lead Communications Officer. He stated they want to give every one a chance but it still takes at least a year to understand the job, so he would not recommend that it be for a term of less than 3 years and he is also not recommending it be a permanent position.

Councilmember Baxter said he doesn't understand why the position has to be continually changed. He noted this is a very important position and he said he doesn't see why it has to be constantly changed.

It was pointed out that the DARE officer is not permanent either.

Chief Dyer said he looks at this as a career enhancement; some of the officers may not be suitable but he said he would like to give everyone a chance and if it doesn't work out, it can be changed.

Councilmember Baxter said that's the problem: the position is continually "on trial" and he said he is really wondering what the job responsibilities are for the Lead Communications Officer.

Chief Dyer said the sergeant is also overseeing the jail, supervising detectives, scheduling and takes care of "busy work"--it's not a "picnic", he concluded.

Councilmember Pedersen asked if Sgt. Peterson wishes to complete his 3 year term, if he would be allowed to and Chief Dyer said yes, he would like to see the term 3 years because it takes more than one or two years to get acclimated to the position.

Councilmember Pedersen asked if a patrol officer could do this on a rotating shift basis and Chief Dyer said that would not work because there would be no continuity.

Councilmember Baxter said he doesn't like this position being "temporary".

Councilmember Herman commended Sgt. Winters on a good job of following up something for him last week, ~~which is one of the benefits of having the same person doing the job.~~ He said as far as making policy, perhaps there should be more indepth discussion about this, possibly at a Council retreat.

Chief Dyer summarized that this position is a real good chance for a detective sergeant to serve the community and demonstrate their leadership at the same time.

Councilmember Baxter said he thinks this should be discussed further, both the sergeant's position and the lead position and go back over the last three years, for example, and see what ideas come up. He noted it's a new operation with new problems involved and needs more indepth study.

Mayor Weiser suggested meeting on this just prior to the next Council meeting from 5 or 5:30, say.

Councilmember Pedersen said she sees two issues here.

Mayor Weiser said he would set up a meeting with Dave Zabell, Bob Dyer, the Fire Board and for the Council to come in at 6:10 p.m. on 5/10 in the Police Training Rm. This was agreed by Council.

OTHER STAFF BUSINESS:

City Administrator Zabell reported there will be no WWTF update from Larry Wade tonight as per the agenda, it will be on 5/9/94. He also reported another long time City employee, Lionel Carter, passed away recently at 88 years of age.

CORRECTED: SEE 5/9/94
delete

City Engineer Berg reported on a change order for 67th & 528 in the amount of \$12,000 being processed for channelization in preparation for the traffic signal. He noted DOT has asked the City to go ahead with preparation for bids and once the bid has been awarded, the project construction time will be about 4 months until completion of the long awaited signal at that intersection.

MAYOR'S BUSINESS:

Mayor Weiser reminded Council of the Comp Plan Public Workshops 5/3 & 5/5/94 at 7 p.m. in Council Chambers.

CALL ON COUNCILMEMBERS:

Councilmember Herman noted he has just heard some comments about CT routes and is happy to take any and all information given to him back to CT.

Councilmember Leighan asked ^{if the house at 10th & Columbia was commercial or residential zoning?} ~~about the rezone that was applied for on the putt putt golf course, whether that had ever been approved because they are now operating. (10th & Columbia)~~ ^{had been remanded to the hearing examiner and it had not come back to Council.}

CORRECTED: SEE 5/9/94

City Planner Hirashima stated the Planning Dept. has talked with the owner who can't do anything as far as a conditional use permit because she is not the owner of the property; the owner of the property is unwilling to rezone and so the alternative would be for the City to process an ordinance amendment. She added that the batting cage is allowed under a Conditional Use Permit and the owner of the putt putt is asking that the City change her business to a Conditional Use Permit also as it is very similar to the batting cage use. City Planner Hirashima said she would be bringing this issue back before Council soon, after doing more checking on it.

Councilmember Wright asked about a road and drainage update and City Administrator Zabell stated that would be in Council's upcoming weekly briefing.

Councilmember Pedersen thanked the Mayor for being at the opening of the Health District's retreat last Saturday at the Tulalip Inn, officially welcoming them to Marysville. She asked about the situation where people use the parking places near City Hall as a park and ride lot and whether the City could have some spaces where a time limit is imposed, specifically for people who need to do City Hall business during the day.

City Administrator Zabell explained that in talking with CT, it would add 8 minutes to their route to include the Ash St. park & ride and they didn't want to do this and so the other alternative would be to provide some parking spaces that are limited to 1 or 2 hour parking, he said. He said he would put that on an upcoming agenda bill for Council to consider.

Councilmember Pedersen passed out fire board questionnaires so that Councilmembers might be better prepared to answer questions from the public.

Councilmember Baxter reported on the interesting process that is taking place in completing the WWTF project and he commended City staff for helping the process run smoothly and cost effectively.

PETITIONS & COMMUNICATIONS: None.

PRESENTATIONS: None.

PUBLIC HEARINGS: None.

REVIEW BIDS: None.

CURRENT BUSINESS:

1. Subdivision Code.

City Planner Hirashima reviewed the agenda bill, noting 11 key features of the ordinance. She noted the revised easements (requirement of 40' is new) and stated the ordinance creates a binding site plan which will help with ease of administration. She noted the subdivision code is based on the Everett code and has been reviewed by the various City departments. Comments have been received from Belmark/NAHB and their letter has been included in the packets, she said.

Under 20.16.100, page 17, Councilor Pedersen asked if 30 calendar days should be consistent throughout (other areas are 60 calendar days) but City Planner Hirashima said no, 30 days is enough time for this final stage.

Councilmember Pedersen asked about revegetation at a density approved by the Planning Director; she also noted street trees have been deleted.

City Planner Hirashima explained that was a change the Planning Commission had made because street trees were not always appropriate.

Councilmember Pedersen suggested instead of "required", the word "recommended" could be used so that street trees may be put in if appropriate. Consensus.

Councilmember Baxter said he doesn't like a single person to have the discretion/responsibility of landscaping, also, that a smaller tree and not alder, should be replanted.

Mayor Weiser pointed out that the Planning Director is only deciding density and not what trees to replant, for example.

Councilmember Herman talked about the process, noting that if the developer is unhappy, they can always make an appeal to City Council so for the most part, the staff can make the decision without carrying too much liability or responsibility here.

City Planner Hirashima explained what is normally done is for the Planning Dept. to get a conceptual with a detailed plan at the final review with plantings and densities; this is required of all wetlands and multi family units and they can appeal to the hearing examiner.

ok Councilmember Pedersen asked about the 3 year tree removal and then replanting. She asked if it should be specific about when they need to replant. *s/b at what point do*

Councilmember Baxter said he feels it should specifically spell out the appeal process that is available.

City Planner Hirashima said they can argue there issue before the hearing examiner or with the staff and bring it before the Council, there is some flexibility there.

Councilmember Pedersen asked about 20.32.010 and whether the 10% was referring to a bonus process.

City Planner Hirashima said that was a bulk and dimensional issue.

Councilmember Pedersen said it should be specific, eg. 10% of the total project and City Planner Hirashima agreed.

Councilmember Herman referred to 20.32.010, Divisions of Land with Existing Structure and noted the 10% requirement ties in with this.

City Attorney Weed said it might be helpful to state in each chapter what it is referring to.

Councilmember Pedersen said she would like to see the Planning Department's comments to be included in the Council packets stated right in the ordinance.

City Administrator Zabell suggested wording: "Copies of comments to be provided for all reviewing bodies" and that way, the comments could be provided for the hearing examiner, for example.

Councilmember Baxter asked about the burying of debris section on page 30 under Clearing and Grading, stating he has a lot of problems with a 2 man rock, for example, not being allowed to be buried back in the ground. It was the consensus to delete the reference to the 2 man rocks and therefore allow rocks to be buried.

Councilmember Baxter referred to 20.12.040 where the Planning Dept. is to prepare written recommendations for the hearing examiner. He said he feels the hearing examiner should be free to hear the problems prior to the City staff making their recommendations.

City Administrator Zabell stated the purpose of the staff report is to give the request and outline how it meets City code.

Councilmember Baxter suggested the word "recommendations" be changed to "report".

Councilmember Herman said he sees the staff report/recommendations as asking the hearing examiner to address particular issues that are of concern to staff.

There was discussion about what is given to the hearing examiner, for example, the whole file, the staff report notes whether the request conforms to code or how it varies from code, comments from neighboring property owners, the hearing examiner can be unbiased.

Councilmember Pedersen stated she is a proponent of the Planning Commission hearing issues that are now coming before the hearing examiner because the Planning Commission is a group who lives in the area and she said she never was in favor of the hearing examiner process. She added he often seems to just reflect the staff recommendations. She asked about a potential conflict between the staff recommendations and hearing examiner recommendations.

City Planner Hirashima pointed out the hearing examiner still has to work with the 1978 Comp Plan which is very limiting at this point and with the revised Comp Plan it will make a lot more detail for the hearing examiner/staff to study as well as there being interpretive issues/new policy that relates to land use.

Councilmember Pedersen said as she recalls, the hearing examiner was on a trial basis, to hear the basic things, with the Planning Commission to still hear some of the larger issues. She added a lot of the developers are developing in phases now and so the Planning Commission isn't hearing anything now.

Mayor Weiser said he also remembers that the Planning Commission was to hear things like areawide rezones, large subdivisions.

Councilmember Baxter stated with the hearing examiner working for the City and seeing recommendations made by the City, he's not sure the hearing examiner can be unbiased.

Councilmember Herman suggested deleting the words "for approval or disapproval" and make it so the staff is simply giving a report to the hearing examiner.

City Attorney Weed pointed out that one part of the staff report is the Findings and Conclusions and if that portion is not included it would probably mean more time spent by the hearing examiner on the case.

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Councilmember Pedersen asked what John Galt receives from the County and City Planner Hirashima said he gets recommendations from the staff. City of Marysville staff compiles all the comments, she added.

City Attorney Weed pointed out that John Galt and Peter Donahue are full time hearing examiners and are hired to make decisions on behalf of the county; Marysville has a part time hearing examiner and one of the differences from the county is budget. He added he thinks one of the things you hope for is an independent thinker and that he will not prejudge the issue until they have heard all sides.

City Planner Hirashima noted Marysville's hearing examiner works for several cities and he really tries to make his decision comply with the respective city's expectations as far as length of his report, detail, etc., depending on neighborhood response, for example.

There was discussion about the hearing examiner appeal process to the City Council, comments/recommendations from other City departments. It was noted the hearing examiner visits the sites in all cases and does make an independent decision.

Councilmember Baxter asked about easements and City Administrator Zabell referred to the most recent agenda bill where a replacement for page 29 of the subdivision code was attached. He noted these easements apply to private roads only.

Mayor Weiser asked about right of way requirements and City Planner Hirashima stated the City Engineer would review this and possibly recommend that the road be expanded to a public one with public road right of way standards.

Councilmember Pedersen asked about ingress and egress/driveway widths and City Planner Hirashima said the parking code addresses that also. She stated if there is a hardship situation they could apply for a variance. She noted Belmark did bring up the issue of location of driveways and probably the reference to future driveways needs to be deleted from the code. She added the section on the tree surveying has been changed (20.12.020) as per the NAHB comments (page 9 - #6); the Planning Commission changed it to say "all significant wooded areas to be surveyed."

There was discussion about what "significant" means, preliminary site information to be shown on the plat maps, for example, would indicate pockets of trees.

City Attorney Weed said possibly there could be a reference to the Forest Practices Permit Act or DNR clearing permit threshold for what constitutes a significant stand of trees.

City Planner Hirashima also noted that neighbors will often call the City when they see people removing trees and it can be checked against whether or not there is an FPA permit. She noted there are policies within the Comp Plan concerning retention of trees and the City has had correspondence with DNR concerning this also.

Councilmember Pedersen asked about drainage plans and neighbors' concerns, for example, she said she would like the hearing examiner to be more specific about who has to approve the drainage plan.

Councilmember Wright asked about the NAHB concern on page 31 about panhandle lots and shared driveways.

City Planner Hirashima stated the City is trying to discourage two side by side panhandles and encourage shared driveways.

Councilmember Wright asked about neighborhood parks and suggested

naming a threshold for when one would be strongly encouraged in a subdivision, for example.

City Attorney Weed referenced 190 (c) with regard to payment in lieu of a set aside of park and said the City might want to add wording there.

Councilmember Pedersen asked where the parks mitigation code is in process and noted that the City is currently only asking \$200 per lot and perhaps that is not enough.

Mayor Weiser said the Planning Commission is updating that now.

City Planner Hirashima added that Michael Cheyne is doing a survey so that a parks section can be included in the Comp Plan. She said she believes the \$200 mitigation fee is going to be increased.

City Attorney Weed noted the targeted time line is 12/31/94 and the Parks Dept. is working on gathering data now, working towards a GMA based ordinance. He noted the City of Snohomish has taken a much longer time than that but until the data is gathered, we can't do very much more at this point.

Councilmember Herman said he would like Marysville do something consistent with the county which would be easier for developers to work with.

It was decided to change the word "contiguous" to "adjacent" under 20.08.110, referring to the property next to the subject property and for "adjacent" to be included in the definitions section.

It was noted there are references to "final short plat" and "final plat" and it was questioned whether the language should be made consistent.

Under 20.12.030 it was noted sometimes the number of copies required changes but it's spelled out in each case.

The 90 day time line was questioned for each step and City Attorney Weed said he would suggest some flexibility because of some seasons being busier than others as well as the liability issue of not being able to meet a specific time frame for each step.

Councilmember Herman suggested making it a "policy" to have time frames that have some flexibility.

City Attorney Weed said that would be okay as long as it's qualified that these time frames can be deviated from under unusual circumstances.

There was discussion about how the City asks for people to conform to time frames and how people are entitled to having some idea of how long something is going to take, changing a sign at Public Works according to the seasons, already having a large chart in the Planning Dept. showing where different projects are in the process, spelling out 21 day time frame under 20.12.120.

City Planner Hirashima said a time frame for a staff report would probably be appropriate.

Councilmember Pedersen noted the Council might end up having meetings on Saturdays if the time frame is not flexible and a meeting has to be held in order to meet a specific deadline that's in the Comp Plan, for example.

City Planner Hirashima noted that a 90 day time frame is often hard to meet when there are appeals.

There was discussion about how long the process is taking, depending on how busy the Planning Dept. is, the 90 day time frame can be shortened.

Councilmember Wright commented on page 51 and 36 where "any person" has the right to appeal.

City Attorney Weed said to change that to "any property owner" might be too restrictive, whereas "any person" might be too broad. He said the options are to mirror the state subdivision code or put in some detailed criteria, eg., a person with a proprietary, pecuniary or personal interest in the outcome and for the person to put that interest in writing as well as the reasons for the appeal.

There was discussion about definition of "aggrieved", the difficulty of enforcing a code more restrictive than the state's, suggested wording: "any person or property owner who has a proprietary, pecuniary or personal identifiable interest" which call is made at the hearing examiner level, definition could be someone who would suffer direct and substantial impact, restricting appeals to property owners within 300' of the subject property, reviewing these changes again at next meeting.

City Attorney Weed suggested adding criteria that define who these people are and to also require these people to identify in written form their particular concern. He offered to bring some wording back to reflect that.

Under 20.20.040 (f), adjustment to state highway right of way, it was noted that change should be added. It would be the same for sidewalks, etc. in the section(s) immediately following.

Councilmember Herman brought up his concern about boundary line adjustments and noted that sometimes they are very minor and have to go through a very involved process, for example, requiring a land surveyor.

City Planner Hirashima pointed out that a mylar is not a requirement for a boundary line adjustment and a sentence could be added addressing a simple boundary line adjustment, she said, because a surveyor could charge anywhere from \$600 to \$1000; a survey could be required if there is a potential for an additional building, she noted.

City Attorney Weed noted sometimes property owners think they know where the current boundary is and it's not, or something happens that creates a problem for others down the line and that's why the county requires a survey in every case. He added he thinks possibly staff should have the discretion with regard to whether or not a survey should be required.

City Planner Hirashima noted the Planning Dept. has sometimes had inaccurate information and they have one situation that still has not been resolved after a year. She suggested inserting criteria at the beginning of the ordinance that would determine whether a surveyor is required to do the legal description; consensus was for staff to reword and bring back in the ordinance format.

CONSENT AGENDA:

1. **Authorize Mayor to Sign Professional Services Contract with Hammond, Collier, Wade-Livingstone & Assoc. for 1994 Sanitary Sewer Improvements/Beach Av. (5th to 9th St.) and State Av. (9th to Grove) West Side Only.**
2. **April 1994 Payroll.**

Councilmember Pedersen moved and Councilmember McGee seconded to approve Consent Agenda Items 1 & 2. Passed unanimously.

ORDINANCES & RESOLUTIONS:

1. **Resolution granting a Conditional Use Permit for Property Owned by Virgil & Betty Miller, subject to conditions.**

Councilmember Myers moved and Councilmember Wright seconded to adopt Resolution #1682. Passed unanimously.

LEGAL MATTERS:

1. **1994/95 Snohomish Regional Narcotics Task Force Interlocal Agreement.**

City Attorney Weed stated there are no changes from previous years.

Councilmember Baxter moved and Councilmember McGee seconded to authorize the Mayor to sign the Interlocal Agreement. Passed unanimously.

ADJOURNMENT INTO EXECUTIVE SESSION: 9:45 p.m.

1. Litigation (No Action)
2. Personnel (No Action)
3. Real Estate (No Action)

RECONVENED & ADJOURNED: 11:23 & 11:24 p.m.

Accepted this 9th day of May, 1994.

David Weiser
MAYOR

Mary Swenson
CITY CLERK

Standa A. Swenson
RECORDING SECRETARY